IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.10.2006

Coram

The Honourable Mr.Justice P.D.DINAKARAN
and
The Honourable Mr.Justice P.P.S.JANARTHANA RAJA

T.C.(A) No.2440 of 2006

Commissioner of Income-Tax
Chennai. ... Appellant

Vs.

MJ/s.Nicco Uco Alliance Credit Ltd.,
(Successors to Overseas Sanmar
Financial Ltd.) New No.9 (Old No.8)
Cathedral Road, Chennai-86. ... Respondent

PRAYER: Appeal under Section 260A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'B' Bench, 10.3.2006 made in I.T.A.No.63/Mds/2001 for the assessment year 1997-1998. (Int.T.A.No.3/2000-2001 dated 20.2.2001 on the file of the Commissioner of Income-Tax (Appeals) IX Chennai against GIR No.3-0/97-98 dated 10.2.2000 on the file of the Joint Commissioner of Income-Tax, Special Range II, Chennai).

For Appellant : Mrs.Pushya Sitaraman
Sr. Standing Counsel for I.T.

J U D G M E N T

(Delivered by P.D.DINAKARAN, J.)

The above tax case appeal is directed against the order of the Income-tax Appellate Tribunal made in I.T.A.No.63/Mds/2001, dated 10.3.2006 with reference to the assessment year 1997-98.

2. The Revenue is the appellant. The assessee is a leading non-banking finance company and for the assessment year 1997-98, it excluded the overdue interest on bills from chargeable interest, which was disallowed by the assessing officer holding that such interest falls within the scope of section 2(7) of the Interest Tax Act and accordingly, added the same to the chargeable interest. Aggrieved over the same, the assessee preferred appeal before the Commissioner of

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Income-tax (Appeals), who confirmed the action of the assessing officer. On appeal, at the instance of the assessee before the Income-tax Appellate Tribunal, the Tribunal held the issue in favour of the assessee.

3. Exasperated, the Revenue has preferred this appeal by raising the following substantial question of law:-

> "Whether in the facts and circumstances of the case, the Tribunal was right in excluding overdue interest on bills from the chargeable interest under the Interest Tax Act ? "

4. It is fairly conceded by the learned counsel appearing for the Revenue that the issue raised in the above question is squarely covered against the Revenue by the decision of Kerala High Court in COMMISSIONER OF INCOME-TAX v. STATE BANK OF TRAVANCORE [(1997) 228 ITR 40], wherein it is held as follows:-

> " The character of an overdue bill is wholly distinct from loans and advances, and the interest on the loans and advances alone is taxable under the Interest Tax Act. The character of an overdue bill is not synonymous with loans and advances. Therefore, the interest on overdue bills is to be excluded from chargeable interest under the Interest Act, 1974."

5. That apart, this Court in T.C.No.55 of 2006 (between the Commissioner of Income-tax v. M/s.Sundaram Finance Services Limited), following an unreported decision of this Court in T.C.No.73 of 2000 (Commissioner of Income-Tax, Madras v. M/s. Harita Finance Ltd., Madras) by judgment dated 1.2.2006, held that the additional finance charges received by the assessee for delayed payment on bills, are not subject to interest tax.

6. In view of the above settled proposition of law, we hold that the interest received on overdue bills are not subject to interest tax.

7. Finding no substantial question of law arises for consideration, the appeals stand dismissed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To:

1. The Assistant Registrar,
   Income-tax Appellate Tribunal,
   Rajaji Bhavan, Besant Nagar,
   Chennai 600 090

2. The Commissioner of Income-tax (Appeals)-IX,
   Chennai.

3. The Commissioner of Income Tax
   Chennai.

4.The Joint Commissioner of Income Tax,
Special Range II, Chennai.

+1cc to Mrs. Pushya Sitaraman, Sr.St.Counsel for IT Dept. Sr 50142

JRG (CO)
km/28.11.

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